

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
Helena Division

MAKUEEYAPEE D. WHITFORD,
Plaintiff,

v.

BREAN GOOTKIN and JIM
SALMONSEN,
Defendant's

CAUSE NO. CV-22-70-H-BMM-JTJ

DECLARATION OF

MAKUEEYAPEE D. WHITFORD

IN SUPPORT OF PLAINTIFFS INJUNCTIVE
RELIEF

MAKUEEYAPEE D. WHITFORD states:

1. I am over the age of 18 years old and competent to testify in this matter. This declaration is in reply to the Defendant's Response To Plaintiff's Motion to Enjoin MSP/DOC Staff & Employees From Frustrating And Impeding Future Access To Courts.

2. A violation of my rights has already occurred.

3. I just got out of Administrative Segregation on August 16, 2023. Doc# 55, #4-13.

4. While I was housed there in Max. Custody, I didn't have any issues with getting paper or notary public or anything else except maybe inadequate time on the tablet which I use to access Lexis Nexis.

5. After I got out and came to High Side Unit 1, I was also given paper. They just recently made it to where I am not allowed to have typing paper.

6. Additionally, they allow type writers in General Population on the High Side, so I can access the type writers.

7. Typing Ribbon, indigent supplies, etc. come from the Inmate Welfare Fund (IWF) from my understanding. The state doesn't pay for them.

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8. Nevertheless, the Unit Manager "Mr. Graham" and the Unit Sergeant's "Sgt. Wall's and Sgt. Server" are the staff and employee's that issue the indigent legal supplies out to inmates (i.e., typewriter's, typewriter ribbons & eraser ribbons, and typing paper.).

9. Since I have been in General Population in High Side Unit 1, my access to these legal supplies has began to be restricted more and more by the unit staff.

10. At first when I got out, I was being given typewriters, ribbon & eraser ribbon, typing paper, etc. in order to do my legal work./

11. I currently have this case and I'm also working on my criminal case and in addition to that, I am a jailhouse lawyer and I help other inmates with thier legal work, etc.

12. Therefore, I check out the typewriter, get ribbons and paper on a regular basis.

13. After noticing my regular use of these things, the Unit Manager and the Unit Sergeant's began to attempt to restrict my use of them.

14. Luckily, I had the mind set to have other people help me get some of these supplies off of the commissary. Which is considered a major infraction violation for trading, lending, and barrowing. If my ways of obtaining these supplies was to get on the radar of the staff and correctional officer's, I wouldn't have anything to use except the 10 sheets of writing paper that we get for indigent supplies.

15. I also obtain my legal supplies in other ways that I don't wish to disclose because if found out it could put some staff's jobs in jeopardy and I could get infracted. However, I routinely am forced

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to obtain them by illegal means which is tantamount to a violation of my rights to access the courts because if it wasn't for my illegal actions, I would not have any legal supplies to work with.

16. When I do have money, I routinely stock up on legal supplies as much as I can plus I buy copy cards sometimes 50 dollars at a time. I spend a lot of my own money on legal supplies.

17. I haven't had any money of my own though in the last couple of months.

18. Therefore, I am forced to rely on my indigency in order to keep my legal supplies stocked. These indigency supplies are paid by inmates through the IWF fund which taxes things like commissary so that there is enough money to help inmates get the things that they want or need.

19. I also have a debt of approx. 5000 dollars+ and my money that I do receive is routinely taxed in order to pay for this debt.

20. As I began to get set up in this unit (High Side Unit 1(HSU1)) and staff began to notice my requests regarding these legal supplies, they began to crack down on what I could have and what I couldn't have.

21. Before I came here, one C/O Blevins, told me that he didn't receive any requests for the typewriter. Now people are routinely asking for these typewriters and I am educating people on their rights to be able to access these types of things, so I do anticipate more and more people to begin asking for these supplies.

22. Meanwhile, the Sgt.'s began telling me that I could only get 30 pieces of typing paper a month, then they switched it up and told me that I could only get 10 pieces of typing paper per month, then they switched it up again by telling me that I couldn't get

any typing paper at all and that I would have to buy it or rely on the 10 pieces of writing paper that I get for indigent status. This paper is the writing paper that has lines in it and that one normally uses for writing letters.

23. According to the Unit Manager, the only paper that I am allowed to have for indigent purposes is that paper. This paper includes paper that I use for my personal letter writing and other letter writing and is not separate for legal supplies. This is in accordance with MSP and DOC Policy and Procedure.

24. The issues with legal supplies and frustration and impeding of my right to access to the courts began with this paper issue.

25. I began to question the Sgt.'s about where all of this was coming from and finally got them to admit that this was being addressed to them by the Unit Manager, however I suspect that it was some of them that began talks with the Unit Manager in order to limit my activity.

26. My requests for this legal stuff, because it is on a routine basis, in my opinion, becomes an issue with the floor staff and Sgt.'s because they don't like to pull all of this stuff out and document it and everything else that comes with these types of requests. So, they see it as an activity that needs to be eliminated and/or controlled so that it doesn't effect their daily routine anymore than it has to.

27. I also suspect that it is a certain Sgt. named "Server" that began questioning the Unit Manager and brought it up to his attention. Although, that is only my opinion.

28. After they cut me off of typing paper, I had to start resorting to other illegal ways to obtain typing paper and if that ever

comes to an end, I will be in a world of hurt unless I can get money on my books to help me out.

29. The next issue, came into being in regards to "eraser ribbons" which allows one to erase something that they have typed. I asked a C/O Flower's if I could get some indigent eraser ribbons and regular ribbon. Both types of ribbon is needed in order to allow someone to continue typing without any issue. Regular Typing Ribbon is approx. 7.50 dollars. Eraser Ribbon is approx. 1.25 dollars.

30. C/O Flower's gave me a box that he had mistaken as "Regular Ribbon" which was actually a box of approx. 10 or 15 "Eraser Ribbon's". The box was full, as I looked in and seen the mistake that C/O Flower's had made. I took one of those eraser ribbon's and showed C/O Flower's his mistake. He looked for a Regular Ribbon but couldn't find any.

31. C/O Flower's eventually got a Regular Ribbon from the Unit Manager who keeps all of those ribbons in his office to my knowledge.

32. Awhile later, I needed a ribbon (this was approx. a couple of days latter), an eraser ribbon. I asked Sgt. Server who said that he didn't have any. So, I asked the Unit Manager who also said that he didn't have any. The box of "Eraser Ribbon" that had been in the Sgt.'s office had mysteriously dissappeared.

33. Subsequently, I was told that inmates are not provided "Eraser Ribbons". This was told to me by Unit Manager, Graham.

34. After that issue, there was some issue with "Regular Ribbons" and the Sgt. and Unit Manager said that they didn't have any of those ribbons.

35. I kept on asking about regular ribbon's and kept getting the same response. So, I ended up writing a grievance on the issue. That grievance response said that they had been out of stock and

they had to refill them. So, those were reordered.

36. In the meantime, I had a talk with the greivance coordinator about this issue and let her know that the Unit Manager said that they didn't have any ribbons and they weren't going to give them to me and she said that they would talk to the Unit Manager.

37. I seen Sgt. Server a couple of day's later and asked him if he had heard the good news. He asked what that was and I told him that the greivance coordinator's had said that they have to give me typing ribbons. I told him this because he is the one who told me that the Unit Manager said that they didn't have to give me Typing Ribbons.

38. Additionally, Sgt. Server began to ask me questions such as "What happens if nobody goes by the rules" or "What if nobody cares" or "What happens if he refuses." I asked him if he was insinuating that he was planning on retaliating for me exersizing my rights. And, he said "no" and that he was just wondering.

39. I wrote this up in order to document the issue in case any future retalitory actions occurred.

40. So, they began to reissue typing ribbons. But, then when they run out they haven't been replacing them right away and continue to wait.

41. There are several different people that use these typewriter's and who are indigent. The staff don't keep a good track of them. Often these typewriting ribbons are used pretty fast and can even be used in one single day depending on how much people are using.

42. Additionally, although the typewriters are checked out to a single person, we have been sharing them because of how many are available. We were told to share them by staff. Even though the rules

say that only one person can use the typewriter at anyone time.

43. We continue to get on the staff and Unit Manager about the typewriter ribbons but the Unit Manager refuses to stock them up so that there is enough for each person to use.

44. In the last week, Oct. 8-14, they gave us two ribbons in order to type with. That is it. For a whole Unit. The Unit consists of 4 Blocks of 12 two man cells, on the top and bottom floors. That is two typewriter ribbons for approx. 180 people. Many of who are indigent.

45. There are at least 3 or 4 regular people who check out these typewriters, plus others.

46. That means that we are given two typewriter ribbons (regular), zero (eraser) ribbons, and no paper except our indigent paper that isn't typewriter paper but lined writing paper. The paper only comes once a month. The regular ribbons we get every week.

47. In my opinion, an actual injury has already happened and is ongoing and continuing because I am forced to use illegal means just to be able to keep up with the legal work that I have to do.

48. As for the access to the Lexis Nexis Computer Tablets, I had to initially file grievances to get access to them while in the hole (i.e., Segregation) and they still do not give them to people on Detention. However, there has always been an issue with these Tablets because not all of the Tablets have access to Lexis Nexis and they are prone to malfunctions and glitches, etc. and although they are given to us everyother day, if I am given a Tablet that doesn't have access to Lexis Nexis several days in a row which often happens, then it easily adds up to weeks at a time where I don't have any access to Lexis Nexis at all.

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49. As far as the law library is concerned, they don't let people check out law books at this time and they don't have current titles and case law. Neither do they have anyone available to provide legal services that is trained and studied in the law.

50. As the Defendant's have discovered, just in September alone, I utilized 226 pages of paper. Should I be infracted or anything else happen that prevents me from obtaining paper from my illegal means, I will have to make do with 10 sheets of writing paper.

51. In addition to Lexis Nexis, the Tablets allow points for watching movies and playing games, but in order to receive those points the person doing the tablets have to complete educational programs and tracks that teach the person something other than playing games and watching movies or otherwise utilizing the tablets for something other than recreational activities. So, there are three things that the tablets do, they allow a person recreation, they are utilized to reform a person and educate them, and they are used to access Lexis Nexis.

52. Tablets are out from 12:00 a.m. to 8:00 p.m. (approx.). That is 8 hours. If you separate that time into three divisions, that results in approx. 2 and 1/2 hours for Lexis Nexis, Education, and Recreation. Each.

53. The education itself is also a right as well as the access to the courts, but the tablets incentive program is useless if you don't think about the recreation component of the tablet system.

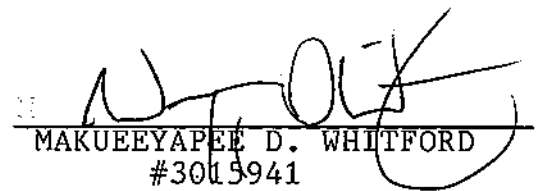
54. This leaves approx. 2 and 1/2 hours for Lexis Nexis which is just not enough time, especially when that everyother day issue turns into a once a week issue. And, keeping up with these glitches and problems with the tablet system is not easy to predetermine in

order to work around them. The next best thing is to pass the tablets out to people like me who need them on a continual basis, each and everyday. In my opinion.

55. Since my case is a special case, that my legal work consist of several cases instead of just one single case, is the reason that I am making a request to the court to order the defendant's to provide extra tablet time.

56. I do hereby declare under the penalty of perjury that the foregoing is true and accurate to the best of my ability, belief, and knowledge.

Done this 8th day of ^{November}~~October~~, 2023.

Signed, 

MAKUEEYAPEE D. WHITFORD

#3015941

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